

REMARKS:

In Respect to the Drawings Objection

The "through holes" have been amended as through hole, which is designated as 45.

In Respect to the Specification

The applicant is a person. For financial consideration the substitute specification and abstract will be submitted after approval of claims.

In Respect to Claims Rejections - 35 USC 112

1. The "through holes" has been amended as through hole.
2. When using the exhausting apparatus with an air dividing case for water closet is installed on the ceiling of the toilet. Obviously, one of ordinary skill in the art understands that the apparatus of present invention is installed on the ceiling of a toilet and the through hole is opened to the toilet directly after studied the structure of the apparatus.

Furthermore, this application is the PCT application No.PCT/CN2004/000955 entering US national stage. The specification of the PCT application describes that “在分气箱 4 的内腔 41 的底部设有通孔 45 通向卫生间”, “连室腔的底部设有通孔 45 通向卫生间”. The correct English translation of the two sentences are that “the bottom of the inner chamber 41 of the air dividing chase 4 has through hole 45 which **is connected to and through with the toilet**” and “the bottom of the chamber to room 412 has through hole 45 which **is connected to and through with the toilet**”.

Therefore, the "through hole 45 to toilet" and "through hole 45 toward to the toilet" have been amended as "through hole is connected to the toilet" in the specification and claims. No new matter is introduced.

In the amended claims, the improper capitalization of term is corrected. The term "conduct" is amended as "duct". The term "adjustable" is amended as "capable of being regulated". The problem of insufficient antecedent basis in claims also is solved.

In respect to Claim Rejections - 35 USC 103

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir.1991). See MPEP 2143-2143.03 for decisions pertinent to each of these criteria."

Regarding claims 11-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5010600 to Prisco in view of U.S. patent No. 5029316 to Fernald, Sr. (Fernald):

1. The claim 1 has important differences from Prisco:

The claim 1 has an air dividing case with one inner chamber only, which is connected with one exhaust fan. The toilet and water closet both are connected with the inner chamber too. But, in Prisco his system has one compartment which is connected with one exhaust fan and toilet and has other compartment which is connected with other exhaust fan and water closet. The two compartments are separated. Therefore, the structure of claim 1 is simpler than the same of Prisco, the manufacture cost is chipper than the same of Prisco. The exhausting apparatus of claim 1 is accepted by the market since its low price and small occupation space.

Prisco does not disclose the new feature of "air valve, which is capable of being regulated and is located between each inlet and said inner chamber" in the claim 1.

Fernald discloses an air valve (36), which is a one way valve. The function of the air valve (36) is to prevent the entry of air into the inner chamber rather than to regulate the flux of the valve. As mentioned above the air valve in claim 1 is a regulation valve for regulating the flux of the valve. When the apparatus is in operation if a user sitting on the water closet feels the air flux into the water closet is too strong and his feeling is uncomfortable, the user can turn the air valve (44) to decrease or increase the air flux into the water closet. Fernald's valve cannot replace the valve of claim 1 for the present invention.

"In order to establish a prima facie case of obviousness, it is necessary for the examiner to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the art would have been led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention-----. Accordingly an examiner cannot establish obviousness by location references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done." Fernald's valve does not provide a motivating force which would impel one skilled in the art to do what the patent applicant has done, i.e. regulating the air flux into the water closet. In opposite if using Fernald's one way valve to instead the regulation valve in the claim 1, the present invention will fail.

Obviously, even the combination of Prisco and Fernald cannot meet the **three basic criteria to establish a prima facie case of obviousness**. Thereby, the claim 11 is patentable under 35 U.S.C. 103(a) over U.S. patent 5010600 to Prisco in view of U.S. patent No. 5029316 to Fernald, Sr.(Fernald).

2. The claim 12 is a dependent claim of the Claim 11. It possesses all new features of claim 11. Therefore, the claim 12 is patentable under 35 U.S.C. 103(a) over U.S. patent 5010600 to Prisco in view of U.S. patent No. 5029316 to Fernald, Sr.(Fernald).

3. The claim 13 has new features of "said inner chamber has air separate plate inside it, which divides said inner chamber into two chambers and divides said outlet into two parts, thereby one chamber with one part of outlet is connected to the water closet and another chamber with another part of outlet is connected to the toilet".

The differences between claim 13 and Prisco are as follows:

In claim 13 the separate plate does not totally separate the inner chamber as two chambers, the two chambers have a common inlet of the exhaust fan. In Prisco the two compartments are separated completely, each compartment has its own exhaust fan. In function, the separate plate of claim 1 is for distributing the capacity of the exhaust fan to two parts, one for the toilet and other for the water closet. Because the toilet needs bigger exhausting capacity as it is a open space and the water closet needs smaller exhausting capacity as it is a close space when the user sitting on it. But, the separated plate of Prisco is for separating the compartments completely to avoid the two exhausting fans interfering each other. The separate plates in claim 1 and Prisco are totally different in structure and function. The Prisco's separate place cannot provide the motivating force which would impel one skilled in the art to do what the patent applicant has done, i.e. distributing the capacity of the exhaust fan to two parts, one for toilet and other for water closet. In opposite, if using the Prisco's separate place to instead the same of claim 1, the present invention will fail.

Furthermore, the claim 13 is a dependent claim of the Claim 11 ultimately. It possesses all new features of claim 11. Therefore, the claim 13 is patentable under 35 U.S.C. 103(a)

over U.S. patent 5010600 to Prisco in view of U.S. patent No. 5029316 to Fernald, Sr.(Fernald).

4. The claims 15 and 17 have new features that the inner chamber has a plurality of inlets to connect a plurality of water closets. Therefore, the apparatus of present invention can be used for one toilet having a plurality of water closets. Neither Prisco nor Fernald discloses this new feature.

Furthermore, Claims 15 and 17 are dependent claims of the Claim 11 ultimately. They possess all new features of claim 11. Therefore, the claims 15 and 17 are patentable under 35 U.S.C. 103(a) over U.S. patent 5010600 to Prisco in view of U.S. patent No. 5029316 to Fernald, Sr.(Fernald).

5. The claims 19 and 20 have new features that the "a T-type rear exhaust hole of said water closet is connected to the inlets of said inner chamber through a duct." Many tests show the T-type rear exhaust hole of said water closet has smaller air resistance force than the overflow tube in water tank of a water closet or the toilet seat 16 having a peripheral conduit 18 disclosed by Prisco and Fernald. Therefore, the T-type rear exhaust hole of said water closet is a best structure for sucking noxious vapors from the water closet.

Furthermore, Claims 19 and 20 are dependent claims of the Claim 11 ultimately. They possess all new features of claim 11. Therefore, the claims 19 and 20 are patentable under 35 U.S.C. 103(a) over U.S. patent 5010600 to Prisco in view of U.S. patent No. 5029316 to Fernald, Sr.(Fernald).

6. The claims 21, 22 and 23 are dependent claims of the Claim 11 ultimately. They possess all new features of claim 11. Therefore, the claims 21, 22 and 23 are patentable under 35 U.S.C. 103(a) over U.S. patent 5010600 to Prisco in view of U.S. patent No. 5029316 to Fernald, Sr. (Fernald).

7. The claims 14, 16, 18 and 24 to 28 are canceled.

Based upon the above reasons, the applicant respectfully submits to the Examiner that the section 103 rejections should be withdrawn.

For all of the above reasons, applicant submits that the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore, applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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